



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1460  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,778	09/22/2003	Benjamin Baudry	218728-000199	9549

7590 02/07/2006

Michael L. Kenaga  
PIPER RUDNICK LLP  
P.O. Box 64807  
Chicago, IL 60664-0807

EXAMINER

KERVEROS, JAMES C

ART UNIT PAPER NUMBER

2138

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/667,778	Applicant(s) BAUDRY ET AL	
	Examiner JAMES C. KERVEROS	Art Unit 2138	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 1-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This a non-Final Office Action in response to the present US Application filed 9/22/2003. Claims 1-10 are pending and presently under examination.

#### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d), for Application FRANCE 0212862, filed 10/16/2002. The certified copy has been filed in parent Application No. 10/667,778, filed on 9/22/2003.

#### ***Specification***

The abstract of the disclosure is objected to because it fails to comply with the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. In the present abstract, the word count is 167, which exceeds the required count. The form and legal phraseology often used in patent claims, such as "said," included in the abstract should be avoided. Correction is required. See MPEP § 608.01(b).

#### ***Claim Objections***

Claims 1-10 are objected to because of the following informalities:

Art Unit: 2138

Claims 1-10 require indentation. Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(m). Appropriate correction is required.

Claim 1, in line 27, "wherein it comprises the following steps:" should be changed to --wherein the method comprises the following steps:--.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 6 recite the limitation "the said data frame" in lines 18 and 19, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claims 1 and 6, the limitation "on the basis of" renders the claims indefinite, because it is unclear what is being compared.

Claims 3 and 8, the limitation "the threshold is practically zero" renders the claims indefinite, because the term "practically" fails to properly define the value of the threshold.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Khayrallah et al. (US PATENT NO: 5,745,502) Issued: April 28, 1998.

Regarding independent Claims 1, 6, Khayrallah discloses, Figure 1, a data communication system 10 including an originating module 110 connecting via a communication link 130 to a terminating module 120. The originating module 110 sends packets or frames of data to the terminating module 120 over the communication link 130. The communication link 130 may be provided by mobile-radio wireless equipment, or by fixed wireless equipment, or by some combination of fixed and mobile-radio wireless equipment, or by terrestrial circuits and data-circuit terminating equipment. Figure 8 is an illustration of a data packet, which is transmitted between the originating and terminating module.

The data packet includes a header field, which carries information concerning synchronization, sequencing, addressing, network management, or other information such as time-stamping information, indicating an instant of transmission of the data packet frame by the originating module 110 with reference to a time counter, as

Art Unit: 2138

illustrated in Figure 2 showing the operation of originating module 110 in a ARQ system, comprising:

The originating module 110 computes the CRC, appends the frame-check bits to the source information (block 210), transmits the packet via the communication link 130 (block 220), and next the originating module 110 starts a timer (block 230), which represents the time-stamping information indicating an instant of transmission of the data packet.

If an acknowledgement frame (ACK) is received at the originating module 110 from terminating module 120 before the expiration of timer (block 240), the originating module 110 deduces that terminating module 120 has received the packet correctly, and then the originating module 110 resets a packet-repeat count (block 250) and awaits the next request for service. The time, when the originating module resets a packet-repeat count, represents the time-stamping information indicating the instant the terminating module 120 has received the data packet.

Otherwise, if a negative acknowledgement frame (NACK) is received at the originating module 110 from terminating module 120, the originating module 110 deduces that module 120 has not correctly received the packet, and if the packet-repeat count (block 260) has not reached its maximum permissible value, the packet is re-sent to the terminating module 120 (block 270), and the packet-repeat count is incremented (block 280). The time, when the originating module receives the (NACK) frame, represents the time-stamping information indicating the instant the terminating module 120 has received the data packet.

Regarding Claims 2, 7, Khayrallah discloses if an ACK is received from terminating module 120 before the expiration of timer (block 240), the originating module 110 deduces that terminating module 120 has received the packet correctly, thus ignoring the (ACK) acknowledgement information, since the ACK is received before the expiration of the timer corresponding to a threshold. Otherwise (i.e., an ACK is not received from module 110 before timer 230 expires), the originating module 110 deduces that module 120 has not correctly received the packet, thus taking into account the acknowledgement information.

Regarding Claims 3-5, 8-10, Khayrallah discloses a time threshold, corresponding to the expiration time of the timer (block 240), where the expiration time is a predetermined time duration starting at zero (block 230) and ending at the expiration of timer, which can be a variable time value depending on the data communication system requirement.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES C. KERVEROS whose telephone number is (571) 272-3824. The examiner can normally be reached on 9:00 AM TO 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2138

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UNITED STATES PATENT OFFICE  
Randolph Building, 401 Dulany Street,  
Alexandria, VA 22314  
Tel: (571) 272-3824, Fax: (571) 273-3824  
[james.kerveros@uspto.gov](mailto:james.kerveros@uspto.gov)

Date: 27 January 2006  
Office Action: Non-Final Rejection

JAMES C KERVEROS  
Examiner  
Art Unit 2138

By:  1/27/2006